

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the
Implementation of the Suspension of Direct
Access Pursuant to Assembly Bill 1X and
Decision 01-09-060.

Rulemaking 02-01-011
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING MOTION OF MERCED IRRIGATION DISTRICT
FOR CLARIFICATION OF ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING MUNICIPAL DEPARTING LOAD ISSUES**

On August 18, 2004, Merced Irrigation District (Merced ID) filed a Motion for Clarification of Administrative Law Judge's Ruling Regarding Municipal Departing Load Issues dated August 10, 2004 (ALJ's Ruling).¹ Merced ID seeks clarification regarding two points. Specifically, Merced ID requests that the ruling be modified to (1) require Pacific Gas and Electric Company (PG&E) and the California Department of Water Resources (CDWR) to provide a summary or report of their testimony on or before September 1, 2004, and (2) provide for post-hearing briefs.

In order to ensure parties planning to cross-examine the CDWR and PG&E witnesses have adequate *time and information* to prepare for and participate in the

¹ Merced ID also requested that the time be shortened to August 23, 2004, for filing of replies to the motion. Rule 45(h) of the Commission's Rules of Practice and Procedure states that nothing in the rule prevents the ALJ from ruling on a motion before responses are filed. Since this ruling is being issued before responses are filed, Merced ID's request to shorten time is moot.

limited evidentiary hearing, Merced ID requests that the ALJ's Ruling be modified to clarify that PG&E and CDWR must provide a summary or a report explaining each witness's testimony in sufficient detail to allow such preparation and participation. PG&E and CDWR have previously filed pleadings, which contain information regarding load forecast information. Merced ID argues that cross-examining parties need to know which portions of those documents the PG&E and CDWR witnesses plan to use in their testimony on September 8, 2004.

Typically in Commission hearings, parties serve their direct testimony on all other parties in advance of hearings in order to prevent surprise and promote efficiency in the hearing process. Consistent with these goals, Merced ID argues that cross-examining parties are entitled to know in advance of the hearings the substance of the oral testimony the PG&E and CDWR witnesses plan to provide regarding factual issues a through e. Thus Merced ID requests that PG&E and CDWR witnesses be directed to provide a report or summary of their oral testimony on or before September 1, designed to respond to the ALJ's Ruling in sufficient detail to allow parties to prepare cross-examination and to participate meaningfully in the abbreviated hearing.

Merced ID also requests the ALJ's Ruling be revised to clarify parties will be afforded the opportunity to file post-hearing opening and reply briefs, as well as comments on a draft decision. Authorizing post-hearing briefs will allow parties who were precluded from sponsoring witnesses to present their arguments in a complete fashion, rather than piecemeal, through cross-examination.

Discussion

The motion of Merced ID for clarification of the prior ruling is granted to the following extent. First, as stated in the prior ruling, it is not anticipated that

any new additional written testimony on substantive issues is required to be presented by PG&E or CDWR witnesses, but that their previously filed pleadings form a sufficient basis to identify their respective factual assertions. Parties have already been served with these pleadings, and can proceed to prepare any cross-examination questions based upon these existing materials. Parties may also seek to introduce relevant materials that are obtained as a result of discovery from PG&E and/or CDWR. To address Merced ID's concern, however, to facilitate parties' preparation for cross-examination and participation in the hearings, PG&E and CDWR are directed to identify specifically what previously filed written pleadings or materials they are offering to support their factual assertions concerning the issues set forth in the ALJ's ruling. PG&E and CDWR shall set forth the identification of these materials to be submitted on September 1, 2004.

As requested by Merced ID, this ruling also affirms that parties will be provided the opportunity to file post-hearing opening and reply briefs, as well as comments on the ALJ's Proposed Decision. The schedule for briefs and comments is adopted as follows:

Evidentiary Hearings:

Examination of PG&E witness	Sept. 8
Examination of CDWR witness	Sept. 13
Opening Briefs	Sept. 27
Reply Briefs	Oct. 4
Proposed Decision (PD)	Oct. 19
Comments on PD	Nov. 9
Reply Comments on PD	Nov.16

Therefore, **IT IS RULED** that:

1. Pacific Gas and Electric Company (PG&E) and the California Department of Water Resources (CDWR) are directed to identify specifically what previously filed written pleadings or materials they are offering to support their factual assertions concerning the issues set forth in the Administrative Law Judge's (ALJ's) ruling dated August 10, 2004. PG&E and CDWR shall set forth the identification of these materials in a written statement to be served on September 1, 2004.

2. Parties shall be authorized to file post-hearing briefs and comments on the ALJ's Proposed Decision in accordance with the schedule set forth above.

Dated August 20, 2004, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion of Merced Irrigation District for Clarification of Administrative Law Judge's Ruling Regarding Municipal Departing Load Issues on all parties of record in this proceeding or their attorneys of record.

Dated August 20, 2004, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.